IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 7345 of 2005

Between:

M/S. Lakshmi Prestress Concrete Works (Private) Limited,
Hasanparthi Railway Station Road, Yellapur,
Warangal District, Rep. by its Manager,
Mr. K. Hanumanntha Rao

..... PETITIONER

AND

1 The Commercial Tax Officer, jangaon, Warangal district.
2 The Commissioner of Commercial Taxes, Government of Andhra Pradesh, Nampally, Hyderbad.
3 The Government of Andhra Pradesh, Rep. by its Secretary Revenue (CT), Secretariat Building, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Certiorari or any other appropriate Writ or order or direction:- (a) quashing the order of the 1st respondent dated 2-2-2005 as contrary to the provisions of APGST Act, in violation of principles of natural justice and without jurisdiction; and (b) set aside the circular of the 2nd respondent dated 8-1-2005 as illegal, arbitrary and contrary to G.O. 496 dated 17-7-2001 and also Section 5-B of the APGST Act; and (c) Consequently declare that the Petitioner being the manufacturer of prestressed concrete sleepers is entitled to purchase cement against 'G' Forms in terms of Section 5-B of the APGST Act read with G.O. 496 dated 17-7-2001.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: Spl. Standing Counsel For Commercial Taxes

The Court, at the stage of admission, made the following ORDER: (Per BRSR,J)

Heard the learned counsel for the petitioner and the learned Special Standing Counsel for Commercial Taxes. At their request, the writ petition itself is taken up for final disposal at the stage of admission. Issue Rule Nisi.

The petitioner in the present writ petition prays for issuance of *Writ of Certiorari* or any other appropriate order quashing the order of the first respondent, dated 02.02.2005, since the same is contrary to the provisions of the Andhra Pradesh General Sales Tax Act, 1957 (for short 'the Act'), in violation of principles of natural justice and without jurisdiction.

It is unnecessary to refer in detail the various contentions urged by the learned counsel for the petitioner – Sri S.Dwarakanath, attacking the impugned proceedings dated 02.02.2005. However, the learned counsel, *inter alia,* contended that the impugned proceedings, dated 02.02.2005, are liable to be set aside on the simple ground of it having been issued in violation of principles of natural justice. The learned counsel submits that the certificate, dated 06.06.2001, Certificate of Registration as manufacturer under Section 5-B of the Act, issued by the competent authority, could not have been cancelled without putting the petitioner on notice.

We find substantial force in the submission made by the learned counsel for the petitioner. The impugned order, undoubtedly, has resulted in adverse civil consequences so far as the petitioner is concerned and such an order could not have been passed without putting the petitioner on prior notice requiring it to put forth its objections. The petitioner is entitled to be heard before passing any order proposing to cancel the Certificate of Registration as manufacturer issued under Section 5-B of the Act.

Sri K. Raji Reddy, learned Special Standing Counsel for Commercial Taxes, appearing for the respondents, however, submits that the impugned proceedings, dated 02.02.2005, can as well be treated as a show cause notice and the petitioner can be permitted to submit its explanation, which shall be considered by the authority.

In our considered opinion, there are no legal impediments for treating the impugned proceedings, dated 02.02.05, as a show cause notice, to which the petitioner shall submit its explanation within one week from today, which shall be received by the respondents for consideration in accordance with law. The petitioner is entitled to raise all the objections raised in this writ petition and such other objections as it may be entitled to in law. That all such objections shall be considered and an opportunity may be provided to the petitioner to submit its case before any order is passed by the authority. The respondents are therefore directed to receive the explanation to be submitted by the petitioner within one week from today and fix a date for hearing of the matter, on which date, the petitioner shall be permitted to put forth its oral submissions also.

Since, we have not expressed any opinion, whatsoever, on merits, it shall be open to the respondents to pass appropriate orders in accordance with law and communicate the same to the petitioner.

The writ petition is accordingly disposed of.

(B. Sudershan Reddy, J)

11.04.2005

(C.V. Ramulu, J)

Note: Furnish CC by tomorrow

B/o

VA/GJ

To

1 The Commercial Tax Officer, jangaon, Warangal district.
2 The Commissioner of Commercial Taxes, Government of Andhra Pradesh, Nampally, Hyderbad.
3 The Government of Andhra Pradesh, Rep. by its Secretary Revenue (CT), Secretariat Building, Hyderabad.

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